IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 28TH SEPTEMBER 2006 / 6TH ASWINA 1928

OP.No. 28549 of 2002(W)

PETITIONER:

K.MANIKANTAN, AGED 55 YEARS,
S/O.KRISHNA PILLAI, MANIKANTA SADANAM,
KUNNATHUKAL, KUNNATHUKAL P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:
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1. THE SALES TAX OFFICER-I,
NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT.

2. THE DEPUTY TAHSILDAR (R.R.),
NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT.

BY G.P. SRI.GEORGEKUTTY MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28/09/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.48549/2002 IN O.P. NO.28549/2002

DISMISSED:

28.9.2006 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: PHOTOCOPY OF APPEAL FILED BEFORE THE ORDER DT.15.5.2001 PASSED BY R1.

P2: PHOTOCOPY OF ORDER DT.27.7.2002 PASSED BY THE APPELLATE ASST. COMMISSIONER, COMMERCIAL TAXES, TRIVANDRUM.

P3: PHOTOCOPY OF DEMAND NOTICE DT.20.4.2002 ISSUED BY R2.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.28549 of 2002

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Dated this the 28th day of September, 2006.

JUDGMENT

The only grievance of the petitioner is that without revising the sales tax assessment for 1999-2000 based on Ext.P2 order in appeal, the amount due under the original assessment is sought to be recovered. It is seen that the appellate authority has modified the original assessment vide Ext.P2 order. Government Pleader is not in a position to report whether there was a second appeal to the Tribunal or whether the appellate order has become final. Therefore, O.P. is dispose of with direction to the first respondent to verify whether Ext.P2 has become final and if so, to revise the assessment in terms of the said order after hearing the petitioner and issue demand and send a copy of the revised demand to the second respondent. If petitioner does not make payment, respondents are free to proceed for recovery of actual amount based on the revised demand. Recovery proceedings will remain stayed for one month from the date of receipt of copy of this judgment and thereafter recovery will be continued for the actual amount due and interest thereon.

C.N.RAMACHANDRAN NAIR
Judge

pms